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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,061	07/14/2003	Richard Thomas Gray	A01182	6906
21898	7590	03/31/2005	EXAMINER	
ROHM AND HAAS COMPANY PATENT DEPARTMENT 100 INDEPENDENCE MALL WEST PHILADELPHIA, PA 19106-2399			MRUK, BRIAN P	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/619,061	GRAY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Brian P Mruk	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 July 2004.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7-22-04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5 and 7-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claims 5 and 8 contain the trademark/trade name "MOREZ". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a product and, accordingly, the identification/description is indefinite. Appropriate correction and/or clarification is required.

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4. Claims 7 and 8 recite the limitation "process according to claim 5" in line 1 of each claim. There is insufficient antecedent basis for this limitation in the claim. The examiner notes that instant claim 5 is drawn to a triggered response barrier composition, and not to a process. The examiner suggests that instant claims 7 and 8 should be amended to depend from claim 6. Appropriate correction and/or clarification is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-8 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sonnabend, U.S. Patent No. 4,384,096.

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Sonnabend, U.S. Patent No. 4,384,096, discloses a liquid emulsion polymer useful as a pH responsive thickener comprising a polymer that contains 15-60% by weight of a carboxylic acid monomer, such as acrylic acid and methacrylic acid, 15-80% by weight of a nonionic vinyl monomer, such as methyl methacrylate, butyl acrylate, and styrene, and 1-30% by weight of a nonionic vinyl surfactant monomer (see abstract, col. 1, line 59-col. 2, line 56, and col. 3, line 26-col. 4, line 31), per the requirements of the instant invention. It is further taught by Sonnabend that the polymer is used in a wide variety of water-based compositions, such as colloidal dispersions of water-insoluble inorganic and organic materials (see col. 7, line 29-col. 8, line 31), and that the polymers have an average particle diameter of 500-3000 angstroms (see col. 7, lines 28-51). Specifically, note Examples 1-5 and Tables I-V. Therefore, instant claims 1-8 are anticipated by Sonnabend, U.S. Patent No. 4,384,096.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions.

8. Claims 1-8 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Langley et al, U.S. Patent No. 5,744,152.

Langley et al, U.S. Patent No. 5,744,152, discloses a polymeric material that is soluble and swellable in aqueous alkali that protects and later releases an active

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ingredient, such as a deterotive enzyme (see abstract and col. 2, lines 19-36). It is further taught by Langley et al that the polymer is a blend of 10-70% by weight of anionic monomers, such as (meth)acrylic acid, and 10-70% by weight of nonionic monomers, such as alkyl (meth)acrylates and styrene (see col. 4, lines 11-40), per the requirements of the instant invention. It is further taught by Langley et al that the polymers have a molecular weight below 500,000 (see col. 5, lines 8-19), that the particles have a size of 100-500 micrometers (see col. 6, line 66-col. 7, line 10), and that the active ingredient includes any material that can be released from a polymeric matrix, such as a detergent enzyme (see col. 7, lines 21-65). Specifically, note Examples 1-4. Therefore, instant claims 1-8 are anticipated by Langley et al, U.S. Patent No. 5,744,152.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone

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number for the organization where this application or proceeding is assigned is (703)  
872-9306.

*BPM*

Brian Mruk  
March 25, 2005

*Brian P. Mruk*

Brian P. Mruk  
Primary Examiner  
Tech Center 1700